

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
City of Okmulgee)	File No.: EB-FIELDSCR-13-00009443
Licensee of Station WQGR373)	
)	
Okmulgee, Oklahoma)	NOV No.: V201332500066

NOTICE OF VIOLATION

Released: September 9, 2013

By the District Director, Dallas Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to City of Okmulgee (Okmulgee), licensee of radio station WQGR373 in Okmulgee, Oklahoma. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On June 19, 2013, an agent of the Enforcement Bureau's Dallas Office inspected radio station WQGR373 located at Okmulgee, and observed the following violation(s):

- a. 47 C.F.R. § 1.903(a): "Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission..." At the time of the inspection, Okmulgee was operating from an unauthorized location, nineteen and one half miles from the authorized location specified on its authorization. Okmulgee is authorized emissions 11K2F3E and 7K60FXE but was also operating with emission 7K60FXD. Okmulgee is authorized to operate a conventional radio system, but they employed a beaconing system, which automatically determined a communications path based upon a Receive Signal Strength Indication (RSSI) from the repeaters, *i.e.*, a trunked system.
- b. 47 C.F.R. § 90.403(e): "Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference." The Okmulgee system disrupted communications of co-channel conventional licensee WPRS508.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Okmulgee, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence,⁴ and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁵

4. In accordance with Section 1.16 of the Rules, we direct Okmulgee to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Okmulgee with personal knowledge of the representations provided in Okmulgee's response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁷

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Dallas Office
9330 LBJ Freeway, #1170
Dallas, Texas, 75243

6. This Notice shall be sent to City of Okmulgee at its address of record.

7. The Privacy Act of 1974⁸ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

³ 47 U.S.C. § 308(b).

⁴ If Okmulgee wishes to operate a trunked system, its system must be coordinated and licensed as a trunked system. Trunked systems must employ equipment that prevents transmission on a trunked frequency if a signal from another system is present on that frequency. See 47 C.F.R. § 90.187(b).

⁵ 47 C.F.R. § 1.89(c).

⁶ Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

⁷ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director
Dallas District Office
South Central Region
Enforcement Bureau